

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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JUN - 9 1997

In the Matter of)
)
MCI Telecommunications Corporation)
Petition for Declaratory Ruling Regarding)
the Joint Marketing Restriction in Section)
271(e)(1) of the Communications Act of)
1934, as amended by the)
Telecommunications Act of 1996)

Federal Communications Commission
Office of Secretary

CC Docket No. 96-149

COMMENTS OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") hereby submits its comments on the Petition for Declaratory Ruling ("Petition") submitted herein by MCI Telecommunications Corporation ("MCI").¹ In that Petition, MCI asks the Federal Communications Commission ("Commission") to interpret Section 271(e)(1) in a fashion that would permit MCI to continue to run certain advertisements for its local and long distance services. Section 271(e)(1) prohibits MCI (and AT&T Corp. ("AT&T") and Sprint Corporation ("Sprint")) from jointly marketing interLATA service with resold local exchange service obtained from a Bell Operating Company ("BOC") prior to February 8, 1999, unless the BOC has received Section 271 certification to provide interLATA service in the particular state in which the affected carrier wishes to engage in such joint marketing.

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¹ Petition for Declaratory Ruling, filed May 1, 1997. And see Public Notice, Pleading Cycle Established for Comments on MCI Petition for Declaratory Ruling Regarding the Joint Marketing Restriction in Section 271(e)(1) of the Act (CC Docket No. 96-149, DA 97-1003, rel. May 9, 1997.

In the Separate Affiliate Order,² the Commission determined that, by this provision, Congress intended to limit the affected carriers' ability to provide "one-stop-shopping," by precluding them from bundling resold BOC local exchange service with their own interLATA service. Thus, the carriers may not offer such a package under an integrated pricing schedule, may not provide a discount for the purchase of both interLATA and resold local services, and may not offer both services "as a single combined product."³ Though the affected carriers may market both services through a single sales force, they may not sell both of them in a single transaction.⁴ They may advertise both services in a single advertisement, but they

may not mislead the public by stating or implying that [they] may offer bundled packages of interLATA service and BOC resold service, or that [they] can provide "one-stop shopping" of both services through a single transaction.⁵

In the event of controversies, the Commission committed to examine the specific facts –

to ensure that covered interexchange carriers are not contravening the

² In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, First Report and Order and Further Notice of Proposed Rulemaking, 5 Comm. Reg. (P&F) 696 (1996) ("Separate Affiliate Order"), pets. for recon. pending.

³ Id. at 779 ¶ 277.

⁴ Id. at 780 ¶ 278.

⁵ Id. at 780-81 ¶ 280. The Commission further determined that Section 271(e)(1) applies only to activities preceding the customer's decision to subscribe; once a customer subscribes to both the interLATA service and resold local service of an affected carrier, the carrier may market "new" services to that subscriber. U S WEST has asked the Commission to clarify that such "new" services may not include discounted packages including interLATA and resold local services. That request is pending. See U S WEST's Petition for Reconsideration, filed herein Feb. 20, 1997 at 5-7.

letter and spirit of the congressional prohibition on joint marketing by conveying the appearance of “one-stop shopping” BOC resold local services and interLATA services to potential customers.⁶

At least one ad attached to MCI’s Petition touts MCI’s ability to offer one-stop shopping. The ad in question (the second page of Exhibit A to MCI’s Petition) pushes “MCI Home Phone Service” in one paragraph, and “MCI’s Friends & Family” – “to everywhere in the U.S.” – in the next. It closes –

Joining MCI is quick and easy – there’s no installation visit necessary and you don’t have to change your phone number. For more information, call today: 1 800 815-7190

This ad implies that a prospective customer may obtain both local exchange service and interLATA service – “quick and easy” – by making a single call to the toll-free number. Moreover, the ad speaks of “Joining MCI”; it is not aimed at existing MCI customers. If MCI (or AT&T or Sprint) were to run such an ad in an area in which it resells local exchange service obtained from a BOC, it would be in violation of Section 271(e)(1).

This implication of MCI’s ability to provide one-stop shopping becomes explicit on MCI’s Internet web site (<http://www.mci.com/localservice>). There we find:

When your company chooses MCI Local Service, you’ll gain the benefits of one-stop shopping for all local and long distance voice, data and video services.⁷

The site lists all the cities in which MCI now provides local service (or soon will). Nowhere does it qualify or condition the promise of “one-stop shopping.” If MCI is

⁶ Separate Affiliate Order, 5 Comm. Reg. at 781 ¶ 282.

reselling BOC local exchange service in any listed city, its web site violates Section 271(e)(1) by misleading the public about MCI's ability to offer "one-stop shopping."

Though less blatant, other MCI ads – which have run since the release of the Commission's Separate Affiliate Order – imply the availability of both local and interLATA service by making a single contact. For example, MCI has been running ads in some twenty cities nationwide with language such as the following:

Now you can choose between what your old local monopoly offers, and the kinds of efficiencies and economies MCI can offer larger businesses. Like competitive volume discounts. Outstanding customer service. Even the opportunity to put your local, long distance, international, data, conferencing, cellular, paging and Internet all on one bill. We know all these areas like the back of our hand. For more information call 212-547-1996 . . .⁸

Anyone reading this ad will know that they may obtain both local exchange and "long distance" (and other services) from MCI, and they will almost certainly assume they may call the listed number and sign up for all these services. Even if that assumption is incorrect, MCI has implied the ability to provide "one-stop shopping" for both interLATA and local service. If MCI provides local exchange service by reselling BOC service in a city where it runs such an ad – and others like it⁹ – we believe it has thereby violated Section 271(e)(1), as the Commission has interpreted that Section, by misleading consumers to believe it can offer "one-stop shopping."

⁷ The introductory page to the web site is copied as Exhibit 1.

⁸ The entire ad is attached as Exhibit 2.

⁹ See Exhibits 3 and 4.

For the reasons stated, the Commission should determine that the ads described herein violate Section 271(e)(1).

Respectfully submitted,

U S WEST, INC.

By:

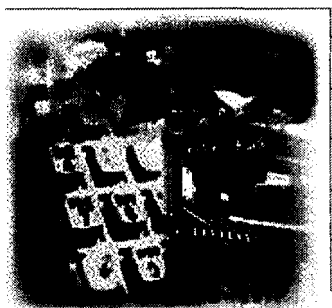


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Of Counsel,
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June 9, 1997

MCI Local Service

- About MCI Local Service
- Service Availability
- Early Success
- MCI: Friends of the Community
- Insight to Local Competition
- Find Out More

With the passing of the local telecommunications bill, you now have the right to choose a local carrier. And many people are selecting MCI Local Service.

When your company chooses MCI Local Service, you'll gain the benefits of one-stop shopping for all local and long distance voice, data and video services. Plus, you'll have the convenience of an integrated invoice that combines all of your local and long distance charges on one simple monthly statement. What's more, with MCI Local Service you'll get outstanding customer support, a reliable network, integrated communication services and monthly savings.

About MCI Local Service

MCI Local Service offers a variety of high-quality local telephone services over one of the most sophisticated and reliable networks ever built.

Service Availability

MCI Local Service is currently available in many cities across the United States, and will be available in additional cities soon. Find out here if MCI Local Service is available in your city.

Early Success

Many businesses are already enjoying the one-stop shopping convenience, integrated invoicing, and outstanding customer service that comes with MCI Local Service.

MCI: Friends of the Community

MCI sponsors a number of community events through the MCI Foundation, at the heart of which is a commitment to bringing opportunity and a better quality of life to communities.

Insight to Local Competition

MCI is working hard to bring local competition to cities across the U.S. In this section, you will find a wealth of information about the Telecommunications Act of 1996, the background behind the issues, and the legislation being passed to support it.

Find Out More

If you would like to request more information on MCI Local Service or to receive literature on our products, please fill out our information form, and we will help to determine the MCI Local Service options that meet your needs.

EXHIBIT 2

For the first time
in history, you can choose

can choose between

local phone service

Not surprising that

what just happened to you

in the area

Introducing MCI Local Service for Business.

Now you can choose between what your old local monopoly offers, and the kinds of efficiencies and economies only MCI® can offer larger businesses. Like competitive volume discounts. Outstanding customer service. Even the opportunity to put your local, long distance, international, data, conferencing, cellular, paging and Internet all on one bill. We know all these areas like the back of our hand. For more information call 212-547-1996 or visit <http://www.mci.com/localservice>.

Is this a great time, or what? :-)



Ad Code: MCITL-2087

EXHIBIT 3

It's your business
making local calls,
it is
the best of times
and it is
the best of times.

Introducing MCI Local Service for Business.

Now, for the first time in history, larger businesses can choose a local phone service. You can stay with what your old local monopoly offers, or switch to the kinds of efficiencies and economies only MCI can offer. Like competitive volume discounts. Outstanding customer service. Even the opportunity to put your local, long distance, international, data, conferencing, cellular, paging and Internet all on one bill. Beats the dickens out of doing it the old way. For more information call 212-547-1996 or visit <http://www.mci.com/localservice>.

Is this a great time, or what? :-)



Suddenly
everyone's competing
to be your company's
local phone service.

We see that smile
on your face.

Introducing MCI Local Service for Business.

Now you have a choice between what your old local monopoly offers, and the kinds of efficiencies and economies only MCI can offer larger businesses. Like competitive volume discounts. Outstanding customer service. Even the opportunity to put your local, long distance, international, data, conferencing, cellular, paging and Internet all on one bill. No wonder you're smiling. For more information call 503-203-1997 or visit <http://www.mci.com/localservice>.

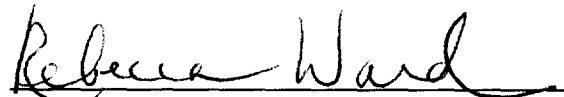
Is this a great time or what? :-)



The Business Journal
4/4/97 Pg. 15

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 9th day of June, 1997, I have caused a copy of the foregoing **COMMENTS OF U S WEST, INC.** to be served, via first-class U.S. Mail, postage-prepaid, upon the persons listed on the attached service list.


Rebecca Ward

***Via Hand-Delivery**

(CC961490.COS/DK/lh)

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